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Convention on the Rights of the Child

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Committee on the Rights of the Child
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Summary record of the 1862nd meeting
Held at the Palais Wilson, Geneva, on Thursday, 23 January 2014, at 10 a.m.

Chairperson: Ms. Sandberg

Contents

Consideration of reports of States parties (*continued*)

Third and fourth periodic reports of Portugal on the implementation of the Convention on the Rights of the Child (continued)

Initial report of Portugal on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (continued)

Initial report of Portugal on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (continued)

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (*continued*)

Third and fourth periodic reports of Portugal on the implementation of the Convention on the Rights of the Child (continued) (CRC/C/PRT/3-4; CRC/C/PRT/Q/3-4 and Add.1)

Initial report of Portugal on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (continued) (CRC/C/OPSC/PRT/1; CRC/C/OPSC/PRT/Q/1 and Add.1)

Initial report of Portugal on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (continued) (CRC/C/OPAC/PRT/1; CRC/C/OPAC/PRT/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Portugal took places at the Committee table.*

2. **The Chairperson** invited the delegation of Portugal to continue its replies to the questions posed at the previous meeting (CRC/C/SR.1861).

3. **Mr. Santos Pais** (Portugal) said that the delegation had submitted documents providing information on human rights training and awareness activities, particularly regarding homophobic bullying, to the secretariat of the Committee.

4. Thanks to a wide range of educational and social measures, such as the extension of compulsory education until the age of 18, steps to combat school dropout and support for disadvantaged families, there were currently only isolated cases of child labour.

5. Significant efforts had been made to train prosecutors and judges so as to ensure that the perpetrators of offences connected to the trafficking and sexual exploitation of children were convicted, and any acquittals justified.

6. The general comments and concluding observations of the Committee on the Rights of the Child, those of other United Nations treaty bodies and Government reports on the implementation of international human rights instruments were posted on the website of the Prosecutor-General's Office. Some of those documents had been translated into Portuguese, while others were in the process of being translated.

7. The proceedings relating to the Casa Pia case had been some of the longest and most difficult in Portuguese legal history. They had resulted in seven convictions in 2010, and prison sentences of between 5 and 18 years had been handed down. Following the proceedings the Casa Pia, which was a public institution for children and young people in difficulty, had been completely reorganized. A working group on preventing sexual violence towards children and the sexual exploitation of children in institutions had been created in November 2007 by the Prosecutor-General. The group's conclusions had prompted the creation of a specialized sexual violence department within the Lisbon Department of Inquiries and Criminal Proceedings, dealing in particular with offences relating to children. A specially adapted courtroom for hearings involving children had been created.

8. In addition to "SOS Children", a hotline set up in 1998, a free national emergency telephone line staffed by social workers and psychologists from the Ministry of Solidarity, Employment and Social Security had been created in 2001. Since 2004, there had also been a dedicated telephone line for cases of missing children. The telephone numbers were highlighted in the yellow pages of the telephone directory and in the media, and displayed

in schools and on the websites of public bodies and non-governmental organizations (NGOs).

9. The Social Emergency Programme, designed to reduce the social impact of the economic crisis, aimed to identify the most urgent situations and make the necessary resources and tools available. Every effort was currently being made to implement it.

10. The Portuguese cooperative social welfare model had existed since 1992. Under the system, most social services were not provided directly by the State, but by private social welfare institutions such as NGOs and associations, to which the State provided technical and financial support under a cooperation agreement. Service providers were selected by District Social Security Departments using strict criteria relating to reliability and good management.

11. **Ms. Castello-Branco** (Portugal) said that no detainee aged between 16 and 18 had ever spent more than 13 days in solitary confinement. The measure was applied only in serious cases and currently concerned between 60 and 65 young people in the country.

12. **Mr. Cardona Llorens** asked whether juvenile and adult detainees were completely segregated, or whether they shared some areas, such as canteens. He also wished to know whether staff working with juvenile detainees received specialized training.

13. **Mr. Santos Pais** (Portugal) said that the procedure for imposing security measures on adults or children was very strict and was monitored by the public prosecutor's office. It involved the detainee, his or her lawyer and staff at the place of detention, including psychologists and social workers. Solitary confinement was monitored by visiting magistrates.

14. **Mr. Cardona Llorens** asked whether the Portuguese authorities planned to raise the age of criminal responsibility to 18. He observed that young offenders aged between 16 and 18 were dealt with in a very similar way to adults.

15. **Mr. Gomes Leandro** (Portugal) said that Portugal had had a juvenile justice system that respected children and prioritized their protection since 1911.

16. Care for children under 12 in conflict with the law could be provided through educational guardianship, the main aim being to instil in them respect for law and the values of society and to ensure their integration in society. If necessary, children over 12 could be placed in an educational centre, especially if they were in need of protection.

17. The special regime applicable to children and young people aged between 16 and 21 was under review. Its aim was to avoid prison sentences as far as possible and promote rehabilitation and reintegration. Legislation provided that being a minor itself represented a mitigating circumstance to be taken into account by judges when determining applicable sentences. The idea of increasing the age of criminal responsibility to 18 was certainly fair and reasonable, but applying it did not currently seem possible.

18. Training courses on the rights of the child and working with young offenders were provided for magistrates, police officers and social workers.

19. **The Chairperson** asked whether minors received prison sentences only as a last resort.

20. **Mr. Gomes Leandro** (Portugal) said that imprisonment was considered a last resort for both young people and adults, a principle highlighted in magistrate training.

21. **Ms. Castello-Branco** (Portugal) said that young detainees had no contact with adult detainees in prisons that housed both adults and minors.

22. **Ms.** Filipa **Pereira** (Portugal) said that the early childhood intervention system, aimed at children under 6 who presented significantly delayed development, provided for a range of measures intended to integrate them in the education system. It had been established as part of cooperation between the Ministry of Health, the Ministry of Solidarity, Employment and Social Security and the Ministry of Education, with the participation of families. From the age of 6, children benefited from multidisciplinary support, led by the Ministry of Education.

23. **The Chairperson** asked for information on the effects of the reduction in resources allocated to the early childhood intervention system.

24. **Ms. Costa** (Portugal) said that Portugal applied an inclusive education policy. Fewer than 1 per cent of children with special educational needs attended special schools. The Ministry of Education was adopting measures to promote access to mainstream schools for autistic, deaf and blind children, as well as those with multiple disabilities, and to avoid placing them in institutions, a last resort that was applied only in cases of total dependence. There had been no significant budget cuts to specialized education, but the number of children with permanent special educational needs had increased and it had been necessary to establish criteria to decide who could receive therapy. The specialized education system was suffering from a lack of staff; in 2013 Portugal had recruited additional teachers to fill the vacancies.

25. **Ms. Simões** (Portugal) said that the budget for specialized education had increased from €8 million in 2008 to €12 million in 2012.

26. **Mr. Santos Pais** (Portugal) said that implementation of the Optional Protocols was supervised by the National Commission for Human Rights.

27. **Ms. Severino** (Portugal) said that the Optional Protocol to the Convention on the Rights of the Child on a communications procedure had been translated into Portuguese.

28. **Ms. Ávila** (Portugal) said that all international instruments ratified by Portugal were published in English and Portuguese on the website of the Prosecutor-General. The National Commission for Human Rights was responsible for disseminating them to Government agencies and civil society.

29. **Ms. Vargas Tavares** (Portugal) said that several ministries participated in disseminating the provisions of the Optional Protocols.

30. **Ms. Ávila** (Portugal) said that Portugal was drafting its initial report on the implementation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. The Council of Ministers had recently adopted a national action plan on combating trafficking (2014–2017).

31. **Ms. Costa** (Portugal) said that an initiative aimed at raising awareness among teachers, parents and children of the dangers of the Internet and promoting informed, critical and safe Internet use (SeguraNet) had been launched several years previously. A website (http://www.seguranet.pt/blog/) had been created and an emergency telephone line set up to receive reports of abuse.

32. **Ms. Montano** (Portugal) said that the National Commission for the Protection of Children and Young Persons at Risk participated in the EU Kids Online project, which focused on children's Internet use and promoted activities related to Safer Internet Day.

33. **Mr. Santos Pais** (Portugal) said that the Prosecutor-General's Office had created a specialized cybercrime department. As part of the plan to combat cybercrime affecting children that had been drawn up in 2013, a booklet for young people on the risks associated with the Internet had been published.

34. **Ms. Castello-Branco** (Portugal) said that legislation criminalized trafficking even in cases where no border had been crossed.

35. **Mr. Kotrane** asked whether Portugal planned to explicitly include the sale of children in criminal legislation.

36. **The Chairperson** asked whether the Criminal Code provided that exploitation of children through labour constituted sale of children.

The meeting was suspended at 11.35 a.m. and resumed at 11.50 a.m.

37. **Ms. Vargas Tavares** (Portugal) said that the Criminal Code provided that recruiting, supplying, transporting, housing, taking in, giving, offering or accepting a child under 18 with the aim of exploitation, sexual exploitation, labour, slavery, organ removal, adoption, criminal activity or begging constituted an act of trafficking.

38. **Ms. Castello-Branco** (Portugal) said that Portuguese courts had jurisdiction over crimes committed on Portuguese territory and on board Portuguese vessels and aircraft, as well as over crimes committed abroad where the victim or perpetrator held Portuguese nationality.

39. **Mr. Santos Pais** said that, under the witness protection and child protection laws, children were heard by the investigating judge only once during proceedings, if necessary in a special room.

40. **Ms. Montano** (Portugal) said that the number of cases of child prostitution and pornography reported to the local commissions for the protection of children and young persons at risk was decreasing.

41. **Mr. Santos Pais** (Portugal) said that anyone with knowledge that an act prohibited by the Optional Protocol had been committed was required to report it.

42. **Mr. Gomes Leandro** (Portugal) said that child victims, particularly children who were victims of prostitution, enjoyed special protection measures.

43. **Ms. Vargas Tavares** (Portugal) said that, while children aged between 16 and 18 could be considered perpetrators of acts addressed by the Optional Protocol, some acts, such as having sexual relations with an adolescent (Criminal Code, art. 73), were criminalized only when committed by an adult.

44. **Mr. Santos Pais** (Portugal) said that DNA tests carried out on the 33 children from Bosnia and Herzegovina, Ukraine and the Republic of Moldova who had purportedly come to Portugal with their parents had shown that most were not related to the adults who were accompanying them, and that they were therefore clearly victims of trafficking. Several adults had been detained and an inquiry opened. Two children had been returned to their parents and the remaining 31 had been taken into care by the social services while their families were being located.

45. **Ms. Ávila** (Portugal) said that the law on asylum set out the conditions for receiving asylum seekers at border crossings. Asylum seekers were temporarily held in the international area of the airport and the competent authorities were required to rule on the admissibility of the request within five working days. Minors and persons travelling with small children were immediately admitted to the country and sent to a specialized establishment managed by the Portuguese Council for Refugees, where they were housed, fed, clothed and allowed to use the telephone. They also had access to health and education services.

46. **Mr. Lai** (Portugal) said that unaccompanied minors, pregnant women, elderly people, persons with disabilities, torture victims and other vulnerable persons who sought asylum at the border automatically received medical and psychological care. All

immigration officials received training from the Office of the United Nations High Commissioner for Refugees and were therefore familiar with interrogation methods used to determine whether child asylum seekers were likely to have participated in an armed conflict in their country of origin, in which case they were cared for by the mechanisms created for that purpose. However, no minor had ever used his former status as a child soldier to claim asylum.

47. **Ms.** Estela **Pereira** (Portugal) said that article 41 (h) of the Code of Military Justice provided that "the recruitment or enrolment of minors in national armed forces or their active use in hostilities", when committed during wartime, was punishable by a prison sentence of between 10 and 25 years. The Code did not precisely define "active use" and it was up to the judge to clarify it. The law on military service set the minimum age for recruitment into the armed forces at 18 and the law on national defence provided that military service was voluntary in peacetime. Exceptional recruitment (conscription or mobilization) was applicable only to nationals aged between 18 and 35, and article 6 of the law on military service provided that, in wartime, only the upper age limit, and not the lower limit, could be modified. Therefore, while the recruitment of minors in peacetime was not criminalized, it was not authorized by the law on military service.

48. The Odivelas Institute would close down at the end of the 2014/15 school year and its students were gradually being transferred to another military school. It had not yet been decided whether they would receive military training there. Dormitories would soon be built so that girls could be admitted as boarders.

49. **Ms.** Filipa **Pereira** (Portugal) said that, for the Portuguese authorities to grant an extradition request, the offence committed abroad had to carry a sentence of at least 12 months' imprisonment. Given that almost all the offences addressed by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography were subject to prison sentences of 12 months or more, they systematically resulted in extradition. Furthermore, the issue of reciprocity did not apply because the Protocol could be used as a legal basis for extradition.

50. Offences addressed by the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, such as the enrolment of children in the armed forces or paramilitary groups or their use in hostilities, were punished by prison sentences of between 10 and 25 years and were therefore grounds for extradition. However, the Protocol could not be invoked as a legal basis for extradition and therefore an extradition treaty with the requesting State was required, failing which the competent authorities would accede to the extradition request only on the basis of reciprocity. If they refused to extradite, they would respect their obligation to "extradite or prosecute".

51. **Ms. Costa** (Portugal) said that many initiatives were in progress in both schools and civil society to promote a culture of peace and security.

52. **Mr. Nogueira Neto** (Rapporteur for Portugal, for the Convention) said that he commended the Portuguese Government's efforts to promote and protect the rights of the child, despite the constraints resulting from the current economic and financial situation. Nevertheless, he feared that austerity measures were having a negative effect on the policies and strategies implemented to protect children, and he thought that the implementation of a data management system and the definition of indicators allowing the progress made in fulfilling the rights enshrined in the Convention to be evaluated in the State party were vital.

53. **Mr. Gastaud** (Rapporteur for Portugal, for the Convention) said that he appreciated the frankness and quality of the dialogue with the Portuguese delegation and encouraged the State party to take due account of the Committee's recommendations.

54. **Ms. Aldoseri** (Rapporteur for Portugal, for the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and for the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography), noting that poverty affected 28.7 per cent of the population, said that, in her opinion, the State party should make combating the phenomenon a priority. Additionally, creating a mechanism to implement the Convention and its two Optional Protocols was essential.

55. **Mr. Santos Pais** (Portugal) said that he wished to highlight the significant progress made by Portugal since consideration of its previous report in 2001, despite the economic and financial difficulties with which the country had had to contend, and assured the Committee that the Portuguese Government would continue to place the rights of the child at the centre of its public policies.

56. **Mr. Bártolo** (Portugal) said that the Portuguese Government continued to attach great importance to the situation of children, as demonstrated by the ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The Government would spare no effort to mitigate the negative effects of the economic crisis and the resultant budgetary restrictions on the most vulnerable, particularly children.

The meeting rose at 1.05 p.m.